

Message Text

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ACTION EUR-12

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AMEMBASSY COPENHAGEN
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AMEMBASSY LONDON
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E.O. 11652 N.A.
TAGS: PINT, SP
SUBJECT: ANOTHER MILESTONE IN SPANISH TRANSITION:
"CONSTITUTION APPROVED IN COMMITTEE"

REF: MADRID 6816

1. SUMMARY: THE CONGRESS OF DEPUTIES CONSTITUTIONAL
COMMITTEE ON JUNE 20 COMPLETED CONSIDERATION OF THE
DRAFT CONSTITUTION (DETAILED TREATMENT OF HIGHLIGHTS
WILL BE FORWARDED BY SEPAIR). THE DOCUMENT WILL NOW
PASS TO THE FULL CONGRESS, WHICH MAY BEGIN ITS DELIB-
ERATIONS DURING THE FIRST WEEK IN JULY. MEMBERS OF THE
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COMMITTEE, WHO HAD BEEN MEETING SINCE MAY 5, PUNCTUATED
THEIR DELIBERATIONS WITH APPLAUSE, HANDSHAKES AND
EMBRACES ALL AROUND, DISPLAYING THEIR NEAR UNANIMITY IN
CONSIDERING THEIR DIFFICULT TASK WELL DONE. OBVIOUSLY
SATISFIED COMMITTEE CHAIRMAN EMILIO ATTARD CLOSED THE
FINAL MEETING BY REFERRING TO THE CONSTITUTION AS A
"SUIT THAT MUST FIT EVERYONE." THIS THE DRAFT LARGELY

SUCCEEDS IN DOING, ALTHOUGH THE BASQUE PNV FINDS IT AN UNCOMFORTABLY TIGHT FIT AND FRAGA'S AP INSISTS THAT THE LEFT SLEEVE IS OVERLY LONG. END SUMMARY.

2. THE COMMITTEE'S FINAL DAY WAS DEVOTED TO CONSIDERATION OF:

--PROVISIONS FOR ELECTION TO THE CONGRESS AND SENATE (CONTROVERSIAL, AND PREVIOUSLY POSTPOND, ARTICLES 63 AND 64;
--CONSTITUTIONAL AMENDMENT (ART. 159-161);

--6 TRANSITORY DISPOSITIONS (CONCERNING, INTER ALIA, THE MECHANISM FOR NAVARRE'S DECISION ON INCORPORATION INTO THE BASQUE REGION AND REAFFIRMING THE MANDATE OF THE SITTING "CORTES");

--AN "ADDITIONAL" DISPOSITION DEALING WITH THE RESTORATION OF THE BASQUE REGION'S "FORAL RIGHTS"; AND

--A FINAL DISPOSITION REPEALING ALL BASIC LAWS OF THE FRANCO REGIME WHICH HAD NOT ALREADY BEEN REPEALED, AS WELL AS THE POLITICAL REFORM LAW WHICH WAS APPROVED IN REFERENDUM ON DEC. 15, 1976.

3. THE ELECTION PROVISIONS AND THE ADDITIONAL DISPOSITION LIMITED OFFICIAL USE

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ON BASQUE FORAL RIGHTS WERE THE TWO ISSUES WHICH SPARKED THE MOST INTENSE DEBATE.

--AS DESIRED BY THE LEFT, ART. 63, AS APPROVED, MAKES EXPLICIT REFERENCE TO THE PROPORTIONAL REPRESENTATION SYSTEM FOR ELECTION TO THE CONGRESS. BUT THE REMAINING WORDING, INCLUDING A PROVISION FOR ASSIGNING TO EACH PROVINCE A "MINIMUM REPRESENTATION" AFTER WHICH THE REMAINING SEATS WILL BE DISTRIBUTED ON A POPULATION BASIS, MAKES THE ARTICLE ACCEPTABLE TO THE GOVT, SINCE THIS FORMULATION EFFECTIVELY DESCRIBES THE EXISTING ELECTORAL LAW, WHICH ADVANTAGES UCD. ART. 64, CONCERNING THE SENATE, LEAVES MUCH TO BE DETERMINED BY FUTURE ORGANIC LAWS. THE MANDATE OF BOTH HOUSES IS FOUR YEARS, AND ONE OF THE TRANSITORY DISPOSITIONS PROVIDES THAT THE SITTING CONGRESS AND SENATE WILL ASSUME THE "FUNCTIONS AND COMPETENCES" THAT THE CONSTITUTION ASSIGNS THE LOWER AND UPPER HOUSES (I.E., APPROVAL OF THE CONSTITUTION DOES NOT THEN TRIGGER ELECTIONS FOR A NEW PARLIAMENT).

--THE PNV'S PROPOSED FINAL DISPOSITION ON "FORAL RIGHTS," WHICH EXPLICITLY PROVIDED FOR THE RETURN TO THE

PROVINCES OF ALAVA, GUIPUZCOA, VIZCAYA AND NAVARRE OF THEIR "ORIGINAL POLITICAL INSTITUTIONS AND POWERS," WAS REJECTED BY ALL THE MAJOR PARTIES AS GOING TOO FAR. THE FINALLY AGREED WORDING, PROPOSED BY UCD, STATES: "THE CONSTITUTION PROTECTS AND RESPECTS THE HISTORIC RIGHTS OF THE FORAL TERRITORIES. THE GENERAL UPDATING OF THIS FORAL REGIME WILL BE CARRIED OUT WITHIN THE FRAMEWORK OF THE CONSTITUTION AND THE STATUTES OF AUTONOMY." ALTHOUGH THE PNV JOINED IN THE UNANIMOUS VOTE IN FAVOR OF THIS FORMULATION, PARTY LEADERS ALSO MADE IT CLEAR AFTERWARD THAT THEY ENTERTAINED SERIOUS RESERVATIONS ABOUT THE

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DISPOSITION, HOLDING THAT WHILE IT "RECOGNIZED" THEIR HISTORIC RIGHTS, IT DID NOT "GUARANTEE" THEIR RETURN. ACCORDING TO PNV LEADER JAVIER ARZALLUZ, "IT IS NOT ENOUGH THAT THE HISTORIC RIGHTS BE RECOGNIZED, THEY MUST ALSO BE CARRIED OUT COMPLETELY, AND I UNDERSTAND THAT THE APPROVED AMENDMENT DOES NOT DO THAT."

4. CONSEQUENTLY, WHILE UCD, THE PSOE, THE PCE AND THE

CATALAN MINORITY ALL APPEAR VERY MUCH ON BOARD IN SUPPORT OF THE DOCUMENT AS A WHOLE (EVEN THOUGH THERE ARE SURE TO BE SOME MINOR SKIRMISHES IN THE FULL CONGRESS DEBATE), THE POSITIONS OF BOTH FRAGA'S AP AND THE PNV REMAIN AMBIGUOUS. BOTH PARTIES, CAREFUL TO PRESERVE AS MUCH LIMITED OFFICIAL USE

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MANEUVERING ROOM AS POSSIBLE, HAVE AVOIDED BACKING THEMSELVES INTO ANY CORNERS ON THOSE PROVISIONS OF THE CONSTITUTION WITH WHICH THEY DISAGREE, OR ON THE BROADER QUESTION OF WHETHER, IF UNSUCCESSFUL IN THEIR ATTEMPTS TO SECURE MORE ACCEPTABLE WORDING, THEY WOULD CAMPAIGN FOR ABSTENTION IN THE REFERENDUM OR EVEN FOR A "NO" VOTE. BOTH SEE IMPORTANT ISSUES OF PRINCIPLE INVOLVED, BUT THEY ARE EQUALLY CONCERNED ABOUT THE PRACTICAL POLITICAL EFFECTS THEIR POSTURE ON THE CONSTITUTION MIGHT PRODUCE. FOR AP, MANY OF THE "PROGRESSIVE" FORMULATIONS ARE DISCOMFITTING, BUT THEY ALSO ARE VIEWED BY FRAGA AS ISSUES ON WHICH HE MIGHT MAKE SOME POLITICAL CAPITAL VIS-A-VIS UCD. FOR THE PNV, THE ACCEPTANCE OF THEIR PROPOSED WORDING ON FORAL RIGHTS MIGHT WELL HAVE INCLINED THEM TOWARD RATHER STRAIGHT FORWARD SUPPORT OF THE CONSTITUTION, IN SPITE OF THEIR PROBLEMS WITH OTHER PROVISIONS ON AUTONOMY. BUT THE LACK OF THIS "COMPENSATION" MAKES IT EXTREMELY DIFFICULT FOR THE PNV TO "SELL" THE DOCUMENT TO ITS CONSTITUENCY, PARTICULARLY IN VIEW OF THE PARTY'S PERSISTENT CONCERN ABOUT BEING OUTFLANKED ON THE AUTONOMY ISSUE BY BASQUE NATIONALIST GROUPINGS TO ITS LEFT, WHICH WILL ALMOST CERTAINLY OPPOSE THE CONSTITUTION.

5. IN AP'S CASE, THE FINAL DECISIONS WILL BE MADE LARGELY BY FRAGA HIMSELF, WHILE THE PNV WILL RETURN TO THE BASQUE COUNTRY TO BEGIN A SERIES OF LOCAL AND PROVINCIAL PULSE-TAKING ASSEMBLIES OUT OF WHICH ITS FINAL DECISION WILL LIKELY EMERGE. NEITHER PARTY HAS ANYTHING NEAR THE PARLIAMENTARY CLOUT TO UPSET THE UCD-PSOE-PCE-CATALAN CONDOMINIUM ON THE CONSTITUTION, BUT THESE GROUPS WILL NEVERTHELESS BE SENSITIVE TO THE POSSIBILITY THAT AN IMPORTANT PARTY, PARTICULARLY THE PNV, MIGHT SIT OUT THE REFERENDUM OR EVEN CAMPAIGN AGAINST THE CONSTITUTION. LIMITED OFFICIAL USE

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ALTHOUGH WE BELIEVE THE CONSTITUTION IS NOW LARGELY SET, THE DESIRE TO HAVE EVERYONE ON BOARD TO THE MAXIMUM EXTENT POSSIBLE MAY GIVE AP, AND PARTICULARLY THE PNV, MORE OF A LEVER THAN SIMPLE NUMBERS WOULD INDICATE. EATON

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